

JAN 07 2004

Dear Sir/Madam (Fax #703-872-9306):

RE: Patent Filing 09/916,701, "Method for Shifting the Bandgap Energy of A Quantum Well Layer"

I called the paralegal of your "Office for Petition Examiner" today (at 703-305-9282) and they advised me to Fax you our document with respect to the above matter. Please pass the enclosed Fax document (total 26 pages) along to them for review.

We have been awaiting the award of the above patent that had been allowed on March 14, 2003. The patent office probably mistakenly abandoned the patent on ground that it did not receive our final set of drawings (See attached Document page 6) while we had actually sent them on time.

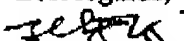
A petition to "withdraw holding of abandonment" was sent to the patent office to correct the error. This was sent by our patent lawyer Alan Limbach of Gray Cary on 9 September 03 (page 1 of enclosed Document) with the enclosure of a return postcard and document to show our timely mailing date of 22 July 03 (page 8 of enclosed Document). The letter showed our timely submittal and possible Patent Office error.

We have not heard from the Patent Office since and are eager to see the award of the patent.

I am writing to you as the inventor and owner of this patent and would appreciate it if you could help me to check on the status of the above matter as this patent is very important to us. Please let me know if the Patent Office had received our 9 September communication letter and our set of drawings.

Please also let me know if the patent will be awarded soon. In case there is any questions, I can be contacted at 224-588-0958 (cell) at any time. In any case, I will call in (I was given 703-305-9265/9282 to call) a few days to check with you. Thanks.

Best regards,


Seng-Hong Ho

120 Picardy Lane
Wheeling, IL 60090
224-588-0958

7 Jan 04

RECEIVED
CENTRAL FAX CENTER

JAN 07 2004

OFFICIAL

Atty Dckt Number: 2103248-990140

PATENT

- 1 -

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

BOON-SIEW OOI et al.

Application No. 09/916,701

Filed: July 26, 2001

For: METHOD OF SHIFTING THE
BANDGAP ENERGY OF A QUANTUM
WELL LAYER

Group Art Unit: 2812

Examiner: SAVITRI MULPURI

PETITION TO WITHDRAW
HOLDING OF ABANDONMENT

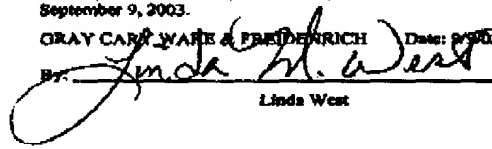
2000 University Avenue,
East Palo Alto, CA 94303-2248
(650) 833-2000

Commissioner for Patents
PO Box 1450
Mail Stop: Issue Fee
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to MS Issue Fee, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on September 9, 2003.

GRAY CARP WARE & FRIEDRICH Date: 9/9/03

By: 
Linda West

Sir:

Applicants hereby petition to withdraw the holding of abandonment in the present application, as evidenced in the Notice of Abandonment mailed September 2, 2003 (copy submitted herewith).

According to the Notice of Abandonment, the present application was abandoned due to Applicants' alleged failure to timely file new formal drawings as required in the Notice of Allowability, namely that no new formal drawings were received.

Applicants submit that new formal drawings were indeed timely submitted in the present case. Submitted herewith is a true and correct copy of Applicant's response to the Notice of Allowance, which included:

1. Transmittal Form
2. PTOL 85B Fee Transmittal

Attv Dckt Number: 2103248-990140**PATENT**

- 2 -

3. Fee Transmittal.
4. Submission of Formal Drawings transmittal.
5. 13 Sheets of Formal Drawings.
6. Check for \$950.
7. Certificate of First Class Mailing
8. Return Postcard.

Also submitted herewith is a true and correct copy of the stamped postcard receipt, which is prima facie evidence under MPEP 503 of receipt in the USPTO of all items listed thereon, including the 13 sheets of formal drawings.

Therefore, it is respectfully requested that the abandonment of the present application be withdrawn.

Respectfully submitted,

GRAY CARY WARE & FREIDENRICH

Dated: Sept. 9, 2003

By: 

Alan A. Limbach
Reg. No. 39,749

Attorneys for Applicant(s)

TELEPHONE: (650) 833-2433 (direct line)
TELECOPY: (650) 833-2001

Gray Cary Ware & Freidenrich
2103248-990140



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address COMMISSIONER FOR PATENTS
 P.O. Box 1418
 Alexandria, Virginia 22313-1418
 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,701	07/26/2003	Boon-Siew Ooi	021040-00060013	9267

26379 7390 09/02/2003
GRAY CARY WARE & FREIDENRICH LLP
 2000 UNIVERSITY AVENUE
 B. PALO ALTO, CA 94303-2248

EXAMINER

MULPURI, SAVITRI

ART UNIT	PAPER NUMBER
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2812

PL 12

DATE MAILED: 09/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

DOCKETED

RECEIVED

SEP - 8 2003

GRAY CARY
 WARE & FREIDENRICH

PTO-90C (Rev. 07-01)

Mail Stop Issue Fee
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Docket No. 2103248-990140

Mailed: September 9, 2003
U.S. Serial No. 09/016,701
Filed July 26, 2001

Enclosed are:

- 1) Transmittal Cover Sheet;
- 2) Petition to Withdraw Holding on Abandonment with Attachments; and
- 3) Return postcard.

. 2103248-990140 Phosistor Technologies AAL/tmw

Mail Stop Issue Fee
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Docket No. 2103248-990140

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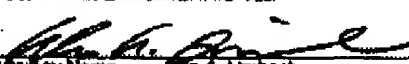


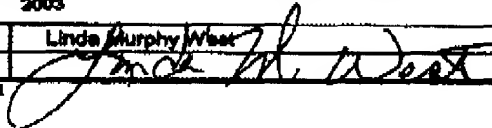
Please type a plus sign (+) inside this box. +

PTO/SB/21 (06-00)

TRANSMITTAL FORM <small>(to be used for all correspondence after initial filing)</small>	Application Number	09/915,701
	Filing Date	July 26, 2001
	First Named Inventor	Boon-Slaw Ooi et al.
	Group Art Unit	2812
	Examiner Name	Savitri Mulpuri
Total Number of Pages in This Submission		Attorney Docket Number 2103248-990140

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Amendment) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication in German <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notices, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Petition to Withdraw Holding of Abandonment
Remarks: _____		

<input checked="" type="checkbox"/> Customer Number or Bar Code Label	<div style="border: 1px solid black; padding: 5px; display: inline-block;"> 26379 <small>(Insert Customer No. or Start/End serial label here)</small> </div>
<p>The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. _____. A duplicate copy of this sheet is enclosed.</p> <p style="text-align: right;">Respectfully submitted,</p> <p style="text-align: right;">GRAY CARY WARE & FREIDENRICH LLP</p> <p>Date: <u>September 9, 2003</u></p> <p style="text-align: right;">By: <u></u> Attorney Name <u>Allen A. Limbach</u> Reg. No. <u>36,749</u> Attorneys for Applicant(s)</p>	

CERTIFICATE OF MAILING			
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Box 1450, Alexandria, VA on this date: <u>September 9, 2003</u>			
Typed or printed name	Linda Murphy West	Date	September 9, 2003
Signature	<u></u>		
Gray Cary/EMV/149934.1 2103248-990140 Gray Cary/EMV/149934.1 2103248-990140			



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER 071916, 701	FILED DATE	FIRST NAMED APPLICANT	ATTORNEY SECRET NO.
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EXAMINER

APT UNIT	PAPER NUMBER P1212
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DATE MAILED:

NOTICE OF ABANDONMENT

This application is abandoned in view of:

- ☐ Applicant's failure to timely file a proper response to the Office letter mailed on _____.
- ☐ A response (with a Certificate of Mailing or Transmission of _____) was received on _____, which is after the expiration of the period for response (including a total extension of time of _____ month(s)) which expired on _____.
- ☐ A proposed response was received on _____, but it does not constitute a proper response to the final rejection.
(A proper response to a final rejection consists only of: a timely filed amendment which places the application in condition for allowance; a Notice of Appeal; or the filing of a continuing application under 37 CFR 1.62 (FWC).
- ☐ No response has been received.
- ☐ Applicant's failure to timely pay the required issue fee within the statutory period of three months from the mailing date of the Notice of Allowance.
- ☐ The issue fee (with a Certificate of Mailing or Transmission of _____) was received on _____.
- ☐ The submitted issue fee of \$ _____ is insufficient. The issue fee required by 37 CFR 1.18 is \$ _____.
- ☐ The issue fee has not been received.
- ☒ Applicant's failure to timely file new formal drawings as required in the Notice of Allowability.
- ☐ Proposed new formal drawings (with a Certificate of Mailing or Transmission of _____) were received on _____.
- ☐ The proposed new formal drawings filed _____ are not acceptable.
- ☒ No proposed new formal drawings have been received.
- ☐ The express abandonment under 37 CFR 1.62(g) in favor of the FWC application filed on _____.
- ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
- ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
- ☐ The decision by the Board of Patent Appeals and Interferences rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
- ☐ The reason(s) below:

FORM PTO-1438 (REV. 10-93)

ABANDONMENT
CONTACT PERSON IS:
TOM HAWKINS
305-8380

Respond to the Notice of Abandonment by one of the following:

Petition To Withdraw Holding of Abandonment (See MPEP 711.03(c) I) and 37 CFR § 1.181) No fee required

Where an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR § 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action. Any petition under 37 CFR § 1.181, to withdraw the holding of abandonment not filed within 2 months of the mail date of a Notice of Abandonment may be dismissed as untimely under 37 CFR § 1.181(f). In order for a petition to be granted, the evidence must be sufficient according to one of the following standards:

- 37 CFR § 1.8(b) Certificate of Mailing
- 37 CFR § 1.10 "Express Mail" mailing
- MPEP 303 Postcard Receipt as Prima Facie Evidence

Petition To Withdraw Holding Of Abandonment should be addressed as follows:

By mail: Commissioner For Patents, P.O. Box 1450, Mail Stop: Issue Fee, Alexandria, VA 22313-1450

By facsimile: 703-305-8755 or 703-305-4372

Petition To Withdraw Holding Of Abandonment Based On Failure To Receive Office Action (See MPEP 711.03(c) II). No fee required

Where an applicant contends that the original Notice of Allowance and Issue Fee Due was never received. If adequately supported, the Office may grant the petition and remail the Office action. The showing required establishing non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petition should be addressed to the Technology Center handling the application as follows:

By mail: Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450
(Mark attention of a particular office or individual)

By facsimile: Technology Center numbers posted at <http://www.uspto.gov/september1/faxnotice.htm>

Petition To Revive An Abandoned Application (See MPEP 711.03(c) III)

Where there is no dispute as to whether an application is abandoned (e.g. the applicant's contentions merely involve the cause of abandonment) a petition under 37 CFR § 1.137 (a) unavoidable or (b) unintentionally (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

Petitions under 37 CFR § 1.137 should be addressed to the Office of Petitions as follows:

By mail: Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450

By hand: Crystal Plaza 4, Rm. 3C23, 2201 Clark Place, Arlington, VA

By facsimile: 703-308-6916

Petition For Revival Of An Application For Patent Abandoned Unavoidably Under 37 CFR § 1.137(a) and Unintentionally Under 37 CFR 1.137(b), forms available at USPTO website - <http://www.uspto.gov>

Note: Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment.

Mail Stop: Issue Fee
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

Mailing Date: July 22, 2003
 U.S. Serial No.: 09/916,701
 Filing Date: July 26, 2001
 Title: METHOD FOR SHIFTING THE BANDGAP ENERGY OF A
 QUANTUM WELL LAYER

Enclosed are:

- 1) Transmittal Form (in duplicate);
- 2) PTOL 85B Fee Transmittal (in duplicate);
- 3) Fee Transmittal FY 2003 (in duplicate);
- 4) Submission of Formal Drawings Transmittal (in duplicate);
- 5) 13 Sheets of Formal Drawings;
- 6) Check in the amount of \$250.00;
- 7) Certificate of First Class Mailing; and
- 8) Return Postcard.

2103248-990140 (Prosecutor)

22250/AAL/M

21
 USA

Mail Stop: Issue Fee
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

Mailing Date: July 22, 2003
 U.S. Serial No.: 09/916,701
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2103248-990140 (Prosecutor)



22260/AAL/XI